



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

DRAFT

Date:	02/23/12	Bill No:	Assembly Bill 2046
Tax Program:	Property	Author:	Allen and Huffman
Sponsor:	Author	Code Sections:	RTC 62.5
Related Bills:		Effective Date:	Upon enactment

BILL SUMMARY

This bill creates a change in ownership exclusion for the purchase of a floating home marina if the tenants of the marina are the purchasers, as specified.

ANALYSIS

CURRENT LAW

Change in Ownership. Under existing property tax law, real property is reassessed to its current fair market value whenever there is a “change in ownership.” (*California Constitution Article XIII A, Sec. 2; Revenue and Taxation Code Sections 60 - 69.5*)

Revenue and Taxation Code Section 60 defines change in ownership to mean a transfer of present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest. Thus for a transfer to meet this definition it must have all three of the following characteristics:

- It transfers a present interest in real property.
- It transfers the beneficial use of the property.
- The property rights transferred are substantially equivalent in value to the fee interest.

Floating Homes. Section 229 provides that a floating home is not a vessel but is treated as real property under Section 229 for property tax assessment purposes.

A “floating home marina” is defined in Civil Code Section 800.4 to mean “an area where five or more floating home berths are rented, or held out for rent, to accommodate floating homes. Excluded from this definition is (1) a marina where 10 percent or fewer of the berths are leased or held out to lease to floating home and (2) a marina or harbor containing berths for fewer than 25 floating homes and managed by a nonprofit organization, where the rules and regulations of the marina are set by majority vote of the berthholders.

Mobilehome Parks: Resident Owned Park Conversions: With respect to mobilehome parks, existing law excludes certain transfers of mobilehome parks from change in ownership reassessments if the tenants who rent the individual spaces of the mobilehome park purchase it. Qualifying conversions to resident ownership permit the residents of the park to retain the base year value of the previous owner, rather than triggering a reassessment of the mobilehome park to current market value. Existing law also provides that once the park has been excluded from a change in ownership and the park has not been converted to condominium, limited equity, or cooperative ownership, then any transfer (after January 1, 1989) of the shares of stock or ownership interests in the entity which acquired the park results in a pro-rata change in ownership in the park real property for the portion of ownership interests which have transferred.

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In other words, once the residents who participated in the original purchase of the park sell or otherwise transfer their ownership interests in the park, that particular share in the park would be reassessed to current market value.

PROPOSED LAW

This measure would add Section 62.5 to the Revenue and Taxation Code to exclude from the definition of "change in ownership" a transfer of a floating home marina to a nonprofit corporation, stock cooperative corporation, limited equity stock cooperative, or other entity formed by the tenants of a floating home marina for the purpose of purchasing the floating home marina, provided that the individual tenants who were renting at least 51 percent of the berths in the floating home marina prior to the transfer participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity that acquires the floating home marina.

"Floating home marina" is defined by cross reference to Civil Code Section 800.4.

IN GENERAL

California's system of property taxation under Article XIII A of the State Constitution (Proposition 13) values property at its 1975 fair market value, with annual increases limited to the amount of inflation or 2%, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or new construction, the value of the property for property tax purposes is redetermined based on current market value. The value initially established, or redetermined where appropriate, is referred to as the "base year value." Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value."

Exclusion for Sale of Undivided Mobilehome Park to Resident Owned Entity-§62.1(a)(1). A transfer on or after January 1, 1985 of a mobilehome park to a specified legal entity, formed by the tenants of a park, for purposes of purchasing the park, is excluded from change in ownership provided that any transfer of the park on or after January 1, 1989 involves 51% ownership of the acquiring legal entity by tenants renting at least 51% of the spaces in the park prior to the transfer. Under Section 62.1(c), if the park has been excluded from a change in ownership and the park has not been converted to condominium, limited equity, or cooperative ownership, then any transfer (after January 1, 1989) of the shares of stock or ownership interests in the entity which acquired the park in accordance with Section 62.1(a), results in a pro-rata change in ownership in the park real property equal to the portion of ownership interests which have transferred. As an exception, this pro-rata change in ownership does not take place, if the transfers are for the purpose of converting the park to condominium or cooperative ownership.

Exclusion for Sale of Individual Rental Spaces to Individual Residents-§62.1(a)(2). Transfers of rental spaces in a mobilehome park to individual tenants of the spaces are also excluded from change in ownership provided that (1) at least 51% of the spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the individual tenants form, within one year after the first purchase of a rental space by a tenant, a resident organization, defined in Health & Safety Code §50781. If the tenant(s) notify the assessor of their intent to comply with these conditions, there is no reappraisal of any spaces purchased by individual tenant(s) during that time period. The assessor may levy escape assessments, if the requirements for the exclusion are not

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met. This exclusion applies only to parks in operation for five years or more, and to qualifying transfers on or after January 1, 1985.

Exclusion for Interim Holding By Non-Resident Owned Entity - §62.2. In some cases, prior to the transfer to the tenants directly or to an entity owned by the tenants, there is an interim transfer of the mobilehome park to a non-tenant owned entity. This entity helps facilitate the purchase and conversion to a resident-owned park. Section 62.2 allows for application of the change of ownership exclusion in Section 62.1 upon the occurrence of an “interim transfer” of the mobilehome park to an entity (including a governmental entity) not owned by the park residents. This exclusion permits an initial transfer to an entity not formed by the tenants, followed within 18 months, by a transfer to one that is formed by the tenants or to the individual tenants (§62.1, above). For parks originally transferred on or after January 1, 1993, the interim time period is extended to 36 months, and for parks located within disaster areas, the time period is extended to 76 months.

BACKGROUND

Change in Ownership Exclusions. The term “change in ownership” was not defined by Proposition 13. Certain definitional “exclusions,” including the interspousal exclusion, were embodied in the initial statutory definitions necessary to implement Proposition 13’s change in ownership provisions. Thereafter, several other exclusions were statutorily provided as follows:

BILL	YEAR	CHANGE IN OWNERSHIP EXCLUSION	R&T CODE
AB 1488	1979, Ch. 242	Numerous definitional exclusions <ul style="list-style-type: none"> • Change in method of holding title • Perfecting title • Security interests • Certain trusts • Retained life estates • Certain joint tenancies • Certain leases 	§62 (a) – (g), §65
AB 1488	1979, Ch. 242	Interspousal Transfers – including marriage dissolutions (subsequently amended into Constitution via Prop. 58)	§63
AB 2718	1982, Ch. 911	Parent to Minor Child Upon Death of Parent - Residence	§62(m)
AB 2890	1984, Ch. 1010	Parent to Disabled Child - Residence	§62(n)
AB 2240	1984, Ch. 1692	Purchases of Mobilehome Parks by Residents	§62.1, §62.2
SB 565	2005, Ch. 416	Registered Domestic Partners	§62(p)
SB 559	2007, Ch. 555	Registered Domestic Partners – Retrospective for 2000-2006 transfers	§62(p)

Since Proposition 13, the Constitution has been amended twice to provide for additional change in ownership exclusions for certain family transfers. These transfers will not trigger a reassessment of the property to current fair market value. Instead, the property retains its prior base year value.

PROP.	ELECTION	CHANGE IN OWNERSHIP EXCLUSION	R&T CODE
58	Nov. 6, 1986	<ul style="list-style-type: none"> • Parent-Child • Interspousal: But, <u>statutorily</u> provided since 1979 	§63, §63.1
193	March 26, 1996	Grandparent–Grandchild	§63.1

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COMMENTS:

1. **Sponsor and Purpose.** The author is sponsoring this measure to ensure that whenever tenants successfully arrange to purchase a floating home marina, property taxes on the marina will remain unchanged.
2. **The proposed exclusion is similar to the exclusion provided to residents of mobilehome parks that band together to purchase the park in which they reside.** Typically, mobilehome park residents make the purchase to obtain management and financial control over the park and to protect their financial well being with respect to their homes. For instance, increases in the rent charged for the park space can become financially burdensome.
3. **Reassessment of property to current fair market value can result in a sharp increase in property taxes.** A fundamental argument for Proposition 13 was that a person would thereafter not be “taxed” out of their home because of increasing property taxes. As the element of Proposition 13 requiring property to be reassessed upon “change in ownership” is triggered, those affected have sought legislation and constitutional amendments based on the rationale that the tax system unfairly penalizes them. Thus, similar to this bill, persons buying the land underneath their mobilehome where they reside have enacted legislation to be able to pay the same level of property taxes as the prior owner.
4. **Subsequent reassessment of pro rata changes in ownership of the floating home marina?** This bill is silent with respect to the treatment of pro rata change in ownerships after the initial exclusion. This issue should be directly addressed. With respect to mobilehome parks, after the original change in ownership exclusion was created, the Legislature changed the law to provide that pro rata changes of ownership in resident-owned mobilehome parks would be subject to reassessment.

COST ESTIMATE

With respect to property taxes, the BOE would incur some minor absorbable costs in informing and advising local county assessors, the public, and staff of the law changes and updating documents to include the new change in ownership exclusion.

REVENUE ESTIMATE**BACKGROUND, METHODOLOGY, AND ASSUMPTIONS**

It is difficult to determine with any degree of certainty the amount of property affected by this bill statewide. However, we believe the majority of affected property is located at one marina in Sausalito, California, a community of about 400 floating homes. Unlike public owned marina properties in the state, the land beneath this floating home marina in Marin County is divided into privately-owned parcels. Assuming most of the impact of this bill is based upon the prospective sale of this marina, and because we have current assessed value data for this marina property, we can attempt to at least give an indication of the order of magnitude of the revenue impact.

Based on data found in the 2011-12 Marin County roll file, the assessed value of this Marin County marina property is approximately \$8.5 million. The sale of this marina to its tenants is merely prospective at this time, and we do not know its current market value. We can, however, attempt to estimate the revenue impact of this bill by using the assessed value to help determine the market value.

The BOE does a study each year to determine the effective assessment level (i.e., the ratio between assessed value and market value) for commercial/industrial property in order to determine the assessment level for rail transportation property (the 4R Ratio). The latest study, based on information from the 2009-10 assessment roll, finds that the effective assessment level for locally assessed commercial/industrial property is about 80 percent. If we apply this ratio to the estimated assessed value of the sample marina property, we can estimate the current market value to be:

\$8.5 million / 80%, or \$10.6 million

REVENUE SUMMARY

The revenue impact of this measure at the basic 1 percent property tax rate for Marin County is estimated to be \$10.6 million x 1%, or \$106,000. Assuming at least 50 percent of the potentially affected marinas are in Marin County, this yields a statewide revenue impact of \$106,000 / 50%, or \$212,000.

Qualifying Remarks. The revenue estimate is based on limited data. The estimate was prepared to give an indication of the order of magnitude of the revenue impact of this bill. The revenue impact will vary depending on an actual sale of the sample marina used to prepare this estimate. Further, the revenue impact could vary greatly depending upon the number of transactions of this nature statewide.

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